

CITY OF LITCHFIELD PARK

ORDINANCE NO. 06-110

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LITCHFIELD PARK, ARIZONA, AMENDING THE LITCHFIELD PARK CITY CODE, AMENDING CHAPTER 10 ARTICLE 10-1 MISCELLANEOUS OFFENSES, BY ADDING SECTION 10-1-10, PURCHASE AND SALE OF PRODUCTS CONTAINING EPHEDRINE OR PSEUDO-EPHEDRINE; ALL RELATING TO THE SALE OF PRODUCTS CONTAINING PSEUDO-EPHEDRINE OR RELATED CHEMICAL COMPOSITIONS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR SEVERABILITY AND DESIGNATING AN EFFECTIVE DATE;

WHEREAS, the illicit manufacture of methamphetamine (“meth labs”) is a serious and continuing problem in this City; and

WHEREAS, due to the flammable and toxic nature of the chemicals used in methamphetamine production, fires, explosions and hazardous materials contamination are common occurrences associated with meth labs; and

WHEREAS, meth labs are found in houses, apartments, hotel and motel rooms, trailers, in both residential and commercial areas, exposing law enforcement personnel, other first responders, the children of the persons operating the meth labs and any other persons in physical proximity to extremely dangerous conditions; and

WHEREAS, pseudo-ephedrine, ephedrine, norpseudoephedrine and phenylpropanolamine are key ingredients in methamphetamine production, and are found in many over-the-counter cold and allergy medications, these over-the-counter medications, by purchase or theft, being the prime source of pseudo-ephedrine in methamphetamine production; and

WHEREAS, recently enacted state legislation only restricts access to products containing pseudo-ephedrine as the only active ingredient; and

WHEREAS, the extraction of pseudo-ephedrine, ephedrine, norpseudoephedrine and phenylpropanolamine from these over-the-counter products is not materially different or more difficult in products containing pseudo-ephedrine, ephedrine, norpseudoephedrine and phenylpropanolamine with other active ingredients as from products containing pseudo-ephedrine, ephedrine, norpseudoephedrine and phenylpropanolamine as the only active ingredients; and

WHEREAS, other jurisdictions in the country have found that the restriction of open access to these products and requiring identification of buyers has substantially reduced the number of meth labs discovered in those jurisdictions;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City Litchfield Park, Arizona, as follows:

SECTION I. In General.

The City Code of the City of Litchfield Park, Arizona is hereby amended by amending Chapter 10 Offenses, Article 10-1 Miscellaneous Offenses, Section 10-1-10, Purchase and Sale of Products Containing Ephedrine or Pseudo-ephedrine to read as follows [deleted text appears in ~~strikeout~~, new text in ALL CAPS]:

SECTION 10-1-10: SALE OF PRODUCTS CONTAINING PSEUDO-EPHEDRINE.

A. DEFINITIONS.

IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "PSEUDO-EPHEDRINE PRODUCT" MEANS ANY PRODUCT CONTAINING EPHEDRINE OR PSEUDO-EPHEDRINE AND INCLUDES ANY COMPOUND, MIXTURE OR PREPARATION THAT CONTAINS ANY DETECTABLE QUANTITY OF EPHEDRINE, PSEUDO-EPHEDRINE, NORPSEUDO-EPHEDRINE, OR PHENYLPROPANOLAMINE OR THEIR SALTS, OPTICAL ISOMERS OR SALTS OF OPTICAL ISOMERS. PRODUCT PACKAGING THAT LISTS EPHEDRINE, PSEUDO-EPHEDRINE, NORPSEUDO-EPHEDRINE, OR PHENYLPROPANOLAMINE AS AN ACTIVE INGREDIENT SHALL CONSTITUTE *PRIMA FACIE* EVIDENCE THAT THE PRODUCT IS A PSEUDO-EPHEDRINE PRODUCT.
2. "RETAIL ESTABLISHMENT" MEANS ANY PLACE OF BUSINESS THAT OFFERS ANY PSEUDO-EPHEDRINE PRODUCT FOR SALE AT RETAIL.

B. THE OPERATOR OF A RETAIL ESTABLISHMENT SHALL KEEP ALL PRODUCTS CONTAINING PSEUDO-EPHEDRINE BEHIND A STORE COUNTER OR OTHERWISE IN A MANNER THAT IS INACCESSIBLE TO CUSTOMERS WITHOUT THE ASSISTANCE OF THE OPERATOR OR AN EMPLOYEE OF THE ESTABLISHMENT.

C. A PERSON MAKING A RETAIL SALE OF A PRODUCT CONTAINING PSEUDO-EPHEDRINE SHALL REQUIRE A GOVERNMENT-ISSUED, PHOTO IDENTIFICATION FROM THE PURCHASER AND SHALL RECORD THE PURCHASER'S NAME, DATE OF BIRTH, QUANTITY OF PSEUDO-EPHEDRINE PRODUCT PURCHASED, TRANSACTION DATE AND THE INITIALS OF THE SELLER.

D. THE INFORMATION REQUIRED TO BE OBTAINED BY SUBSECTION C WILL BE RETAINED BY THE RETAIL ESTABLISHMENT FOR A PERIOD OF NINETY (90) DAYS, AND WILL BE CONSIDERED A CONFIDENTIAL DOCUMENT THAT WILL ONLY BE AVAILABLE TO THE OPERATOR OF THE RETAIL ESTABLISHMENT, AND SHALL BE AVAILABLE TO THE CITY OF LITCHFIELD PARK POLICE DEPARTMENT OFFICERS, ARIZONA DEPARTMENT OF PUBLIC SAFETY OFFICERS, MARICOPA COUNTY SHERIFF'S DEPARTMENT OFFICERS, AND OTHER LAW ENFORCEMENT OFFICERS.

- E. THE RECORD OF INFORMATION REQUIRED BY SUBPARAGRAPH (C) SHALL BE KEPT CONFIDENTIAL IN SUCH A MANNER AS TO PREVENT PURCHASERS FROM VIEWING THE LOG BOOK INFORMATION GIVEN BY ANY PREVIOUS PURCHASER OF PSEUDO-EPHEDRINE PRODUCT.
- F. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

SECTION II. Providing for Severability.

If any Section, sub-section, sentence, clause, phrase, or option of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION III. Effective date.

The effective date of this ordinance is March 23, 2006.

PASSED AND ADOPTED by the Common Council of the City of Litchfield Park this 15th day of February, 2006.

J. Woodfin Thomas, Mayor

ATTEST:

Mary Rose Evans, City Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
City Attorneys
By: Susan D. Goodwin